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C O N F I D E N T I A L SECTION 01 OF 03 TEL AVIV 006357

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TAGS: [PREL](#) [PGOV](#) [KWBG](#) [IS](#) [ELECTIONS](#) [GOI](#) [INTERNAL](#) [GOI](#) [EXTERNAL](#) [GAZA](#) [DISENGAGEMENT](#) [ISRAELI](#) [PALESTINIAN](#) [AFFAIRS](#)

SUBJECT: LIVNI DISCUSSES THIRD PARTY, HAMAS, OUTPOSTS, AND
WEST BANK-GAZA LINK WITH AMBASSADOR

REF: A. TEL AVIV 06247

1B. TEL AVIV 01524

Classified By: Ambassador Richard H. Jones for reasons 1.4 (b) and (d)

11. (C) Summary: Minister of Justice Tzipi Livni told the Ambassador on November 3 that, although "the numbers do not show it yet," Sharon will find a majority for his ministerial nominations because most Likud members do not want new elections. She said that it is significant that Israel has accepted a third-party observer at Rafah, and that the third party should be effective and have the authority necessary to maintain security. She added that a successful third-party solution could lead to cooperation on the Gaza airport and seaport. Livni opined that Hamas should not be allowed to participate in Palestinian elections because Palestinian Authority President Mahmud Abbas would be even weaker once Hamas "is 30-40 percent of the parliament." She claimed that releasing prisoners or allowing more Palestinian travel between the West Bank and Gaza would not be enough to strengthen Abbas against Hamas, and that the international community should force him to ban Hamas's participation in the elections. Livni blamed the Ministry of Defense (MOD) for the lack of movement on dismantling outposts, defending her inter-ministerial committee on the Sasson report as being charged with strengthening the legislation on outposts for "the future" while the MOD is responsible for dealing with outposts now. She voiced a strong preference for an underground tunnel for a West Bank-Gaza link, arguing that a rail or vehicle convoy would cut Israel "in half." With respect to Patent Term Extension legislation, Livni claimed that Israel's pharmaceutical industry is "the underdog," so the U.S. should understand the GOI's position. End summary.

Sharon's Ministerial Nominations

12. (C) Minister of Justice Tzipi Livni told the Ambassador on November 3 that she did not know what would happen next week with respect to Prime Minister Ariel Sharon's nominations of Ronni Bar-On, Ze'ev Boim, and Ehud Olmert as Ministers of Industry and Trade, Immigration Absorption, and Finance, respectively. She said it is not the "most important issue in the world," but that Sharon sees it as a test of his ability to govern, so for him it is a dramatic vote. She explained that some Likud members will find a way to compromise on the nominations, but that there are five or six who, despite "talking ideology," are against Sharon personally, and are willing to let the government fall. In response to the Ambassador's question on whether the PM would split up the nomination packages, Livni responded that for now Sharon is trying to find a majority and will not split the nominations the day before the vote because he will be seen as backing down. She continued that, after the Likud Central Committee vote in September (ref A), most of its members do not want early elections. At the end of the day, she added, the nominations will pass, but noted that for now "the numbers do not show it yet" and "no one is blinking."

Third Party Issues

13. (C) Livni underlined the fact that it is significant that Israel has accepted a third-party observer at Rafah, and even more significant that the third party will be the European Union and not the U.S. She acknowledged that there are many unresolved security issues, but emphasized that it is important that the EU team be effective and have the authority it needs to maintain security, because otherwise Israel "will say no." She asked for advice on how to deal with the fact that different countries in the EU have different "rules of engagement," and the Ambassador suggested that Israel work out ROEs as much as possible with the country or countries actually involved. Livni again emphasized the need to have an effective third party because it could lead to cooperation on the airport and seaport. She also mentioned that Defense Minister Shaul Mofaz in Cabinet meetings has been against the idea of a transportation link between the West Bank and Gaza Strip because terrorists can transfer expertise. If the third-party solution is effective, she said, she can argue that "it works" and perhaps apply it to the West Bank-Gaza link. With respect to

having a live video feed between the Palestinian-EU side of the crossing and the GOI's security establishment, Livni explained that the rationale behind this idea is not mistrust of the Palestinians or a need to monitor Palestinian security effectiveness. From the GOI's perspective, sharing all live video feed is a confidence-building measure that also helps both sides stop any potential terrorist attacks much more effectively than passing day-old tapes.

Hamas in the Elections

14. (C) Livni commented that having Hamas participate in Palestinian elections is a "big issue." The Ambassador asked whether the GOI is going to publicly comment any more than it already has on Hamas' participation. Livni said "no," but added that the international community, including the U.S., should provide Palestinian Authority President Mahmud Abbas political cover by making statements against Hamas's inclusion in the elections. She rejected Abbas's claim that he is too weak to take on Hamas now, asking "what happens when Hamas is 30-40 percent of the parliament and they are still terrorists?" Livni opined that Hamas would not become more moderate if it joins a Palestinian government because "it wants to destroy Israel and does not accept a two-state solution." She added that "we'll be stuck" because the Israeli right wing can use that as a reason to not engage with the Palestinians. She remarked that having terrorist organizations participate in elections is incompatible with democracy, and cited the example of Spain excluding Batasuna, the Basque party associated with the terrorist organization ETA, from elections. Livni commented that one possible solution would be to have Hamas publicly declare that it is giving up its terrorist activities.

15. (C) The DCM asked whether it is possible to strengthen Abbas in the next few months before elections, and Livni responded there is no way at this late stage to make a dramatic impact on the attitudes of the Palestinian people. She recounted that she was involved with the Zinni, Tenet, and Wolf missions, and all wanted a release of Palestinian prisoners to help the PA leadership, but asked rhetorically, "If I release Hamas prisoners, is this a victory for the PA or for Hamas?" She continued that increasing the number of cars that can travel from Gaza to the West Bank from 35 to 100 would not make a dramatic difference either, but despite this, Israel will continue to do what it can to help Abbas -- as long as there is no security threat.

Outposts and Sasson Report

16. (C) The Ambassador referred to removal of illegal outposts as a possible way to help Abbas. Livni professed surprise that he raised the issue, but mentioned that the GOI is working on it. She claimed that she believes the outposts are illegal, but minimized the importance of her inter-ministerial committee's inaction, saying that the Ministry of Defense (MOD) need not wait for the committee's recommendations to dismantle outposts which are illegal. (Note: Livni chairs the inter-ministerial committee tasked with determining how to implement the recommendations in Talia Sasson's report on illegal outpost activity. The committee was supposed to have issued its recommendations in late June, but it received a 60-day extension, and is now over two months beyond the extension. End note.) She characterized her committee as being charged with strengthening the legislation on outposts "for the future," and the MOD as responsible for dismantling outposts now. Livni said that the GOI has made some progress on controlling outposts, however, and cited a few examples:

-- Attorney General Menachem Mazuz issued a statement that no money is to go to outposts from any ministry.

-- The Defense Minister has not signed permission forms for any new buildings or trailers to be set up in outposts.

-- Construction and Housing Minister Yitzhak Herzog is not approving any investments in outposts.

-- The Cabinet adopted the Sasson report in full. (Note: Per ref B, the GOI adopted "only the principle that the rule of law should be obeyed," and not the report itself. Mazuz allegedly said that the Cabinet could not adopt the report in its entirety until its conclusions are examined more closely. End note.)

17. (C) When the Ambassador asked whether dismantling some illegal outposts could help Abbas, Livni replied that the GOI had already done this with Gaza disengagement, "and they were legal," referring to the settlements. She said Israel evacuated homes built legally with the support of both Likud and Labor governments, and yet the Palestinians are still firing Qassams into Sderot. She added that the GOI also has

to convince the Israeli public that disengagement was worthwhile, and said that a statement from Hamas renouncing terrorism would demonstrate for Israelis the benefits of disengagement. Livni said that the way to help Abbas is to get rid of Hamas and force him to prevent Hamas's inclusion in Palestinian elections.

Gaza-West Bank Link

18. (C) With respect to a Gaza-West Bank link, Livni claimed that a passage for Palestinians would create Palestinian contiguity, but would destroy Israeli contiguity and cut the country "in half." She preferred that a tunnel be built between the West Bank and Gaza instead, so that Palestinians could still move between the two, but out of view from Israelis. She acknowledged that it would take a long time and a lot of money to build a tunnel, despite the fact that it would be what she termed "only 34 kilometers" long, but added that it would change Sharon's mind positively on the link issue. The Ambassador pointed out that the USG has offered to do feasibility studies on a number of alternatives for the link, and was waiting for a GOI response on terms of reference, including options. Certainly a mixture of a sunken road or railroad combined with a tunnel was a possibility. Livni responded that she does not want to be able to see the link at all and would prefer that it be entirely underground.

PTE Legislation

19. (C) The Ambassador told Livni that the U.S. is concerned about the effect that the Patent Term Extension (PTE) legislation drafted by the MOJ will have on the commercial rights of research-based pharmaceutical firms in Israel. He explained that the USG is concerned about retroactive implementation of the legislation and the hurdles applicants would have to go through to fill out patent extension applications. The Ambassador asked whether the legislation could be put on hold in the Knesset until the USG and GOI have had an opportunity to discuss the issue further. Livni responded that Israel put the legislation on hold earlier while waiting for a response from the U.S. but did not receive one. She added that she was not that familiar with the issue overall, but commented that Israel and the U.S. have competing pharmaceutical interests. She said that Israel is "the underdog," so the U.S. should understand its position. Livni mentioned, however, that the MOJ is willing to continue discussions on the legislation, and the Ambassador offered to provide specific views. He added that Israel's steps on intellectual property rights were taking it away from OECD standards which was not in its best interest.

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JONES